

Part 187 Fees

This edition replaces the existing loose-leaf
Part 187 and its changes.

This FAA publication of the basic Part 187, effective June 30, 1962,
incorporates Amendments 187-1 through 187-5 with preambles.

Published
June 1995

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PART 187

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Appendix A

Methodology for Computation of Fees for Certification Services Performed

Outside the United States App. A-1

replace the present "Civil Air Regulations" and "Regulations of the Administrator."

During the life of the recodification project, Chapter I of Title 14 may contain more than one part bearing the same number. To differentiate between the two, the recodified parts, such as the ones in this new subchapter, will be labeled "[New]." The label will of course be dropped at the completion of the project as all of the regulations will be new.

Subchapter K [New] was published as a notice of proposed rulemaking in the *Federal Register* on March 27, 1962 (27 FR 2803), and circulated as Draft Release 62-12. All comments received concurred with the substance of the proposal as published. Two comments received suggested changes in style or format or in the technical wording of certain sections in parts 183, 185, and 189 [New]. These comments were carefully considered and, where consistent with the style, format, and terminology of the recodification project, were adopted.

As proposed, this subchapter was labeled "J." It has since been determined that there is a need for an additional subchapter to contain rules governing air navigation facilities. To make room for the added subchapter, the administrative regulations have been redesignated as Subchapter K [New] and the parts renumbered.

No substantive change has been made in the subchapter, the purpose of the recodification project being simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. The definitions, abbreviations and rules of construction contained in part 1 [New] published in the *Federal Register* on May 15, 1962 (27 FR 4587) apply to the new subchapter K.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. The Agency appreciates the cooperative spirit in which the public's comments were submitted.

In consideration of the foregoing, effective June 30, 1962, Chapter I of Title 14 is amended by adding a Subchapter K [New] as set forth below, and Chapter III of Title 14 is amended by revoking parts 401, 414, 415, 418, and 612.

This amendment is made under the authority of Sections 301(c), 305, 307(b), 313(a), and 314 of the Federal Aviation Act of 1958 (49 U.S.C. 1341(c), 1346, 1348(b), 1354(a), and 1355); and Section 501 of the Act of August 31, 1951 (5 U.S.C. 140).

Amendment 187-1

Fees for Copying and Certifying Federal Aviation Agency Records

Adopted: May 24, 1963

Effective: May 30, 1963

(Published in 28 FR 5353 on May 30, 1963)

The purpose of this amendment is to amend part 187 [New] to correctly reflect the fees charged for a duplicate original medical certificate and for duplicate copies of miscellaneous documents.

Section 414.3(b) of the Regulations of the Administrator established the fees to be charged for searching of records and supplying of duplicate original documents. It provided for a \$2.00 fee for airman and medical certificates and a \$1.00 (per page) fee for other miscellaneous documents. The notice of proposed rulemaking on the recodification of that part (Draft Release 62-12, 27 FR 2803) correctly stated these fees. However, in the final rule (27 FR 4951) a typographical error was made which changed the fee for a medical certificate to \$1.00 and dropped any reference to miscellaneous documents. In order to remedy this situation § 187.3 [New] is being amended to reflect the proper fees.

Certificate of Registration of Aircraft

Adopted: May 13, 1964

Effective: August 18, 1964

(Published in 29 FR 6492, May 19, 1964)

The purpose of this amendment is to set forth in part 187 [New] of the Federal Aviation Regulations, "Fees for Copying and Certifying Federal Aviation Agency Records," the increased fee for a duplicate certificate of registration of aircraft.

On October 3, 1963, this Agency issued Notice of Proposed Rulemaking No. 63-39 (28 FR 10793) in which it set forth a proposal for increased fees for registration of aircraft. A number of comments were received from interested persons, and due consideration has been given to all relevant matters presented.

Notice No. 63-39 proposed that the fee for a duplicate certificate of registration, increased from \$1.00 to \$2.00, be listed with the fees for registration in §47.17 of part 47 [New] of the Federal Aviation Regulations, "Aircraft Registration," and that reference to this fee be added in §187.3(b) of part 187 [New], the Agency's general regulation prescribing fees for furnishing duplicates, of documents filed with it.

Section 414.2(b) of part 414 of the Regulations of the Administrator, as revised in 1959 (24 FR 6038), and before recodification as §187.3(b), had been interpreted to provide fees *per document* for duplicate originals. These were brought into part 187 [New] as fees for *each page*. In order to retain this interpretation, the part is amended to make the price apply to documents rather than pages. Since this amendment is clarifying in nature in this respect and merely restates the former substance of the regulation, notice and public procedures thereon are unnecessary, and the amendment may be made effective immediately.

In consideration of the foregoing, §187.3(b) of part 187 [New] of the Federal Aviation Regulations is amended effective August 18, 1964, to read as follows:

This amendment is issued under the authority of Section 501 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1401); and Section 501 of the Act of August 31, 1951 (5 U.S.C. 140).

Amendment 187-3

Public Availability of Information

Adopted: August 15, 1967

Effective: August 22, 1967

(Published in 32 FR 12050, August 22, 1967)

The purpose of this rulemaking action is to effect the changes in the Federal Aviation Regulations made necessary by the taking effect of the "public information act" (5 U.S.C. §552, as revised by P.L. 90-23) on July 4, 1967, and of the Department of Transportation regulation implementing that act, 49 CFR part 7, entitled Public Availability of Information.

The Department regulation applies to all "operating administrations" of the Department of Transportation, including the Federal Aviation Administration. Subpart H of the Department regulation contains a schedule of fees. Additional rules applicable to FAA only are set forth in appendix C to 49 CFR part 7.

in § 187.5(b) for certain duplicate originals of certificates is also prescribed in other provisions of this chapter (see, e.g., §§ 47.17, 61.13, 63.16, 65.16, and 143.8).

It follows that part 187 may now be limited to prescribing residuary fees for replacements, duplicates, or facsimiles of licenses for which fees are not otherwise specifically prescribed, and fees for copies of documents requested for purposes other than those dealt with in 49 CFR part 7. The fees for copies of licenses are at the same level as at present, and the amounts of the other fees are the same as those in 49 CFR part 7.

This rule-making action is taken under the authority of Title V of the Independent Offices Appropriations Act of 1952 (65 Stat. 290) and secs. 301(c), 302(f), 303(d), 305, 307(b), 313(a), and 314 of the Federal Aviation Act of 1958 (49 U.S.C. 1341(c), 1343(d), 1344, 1346, 1348(b), 1354(a), and 1355). Since this action relates to agency organization, management, and personnel, and to public property, notice of rulemaking and public procedure thereon are not required and the action may be made effective less than 30 days after its publication.

In consideration of the foregoing, part 187 is amended effective August 22, 1967.

NOTE: 49 CFR part 7, Public Availability of Information, referred to in the foregoing preamble, is included in the *Department of Transportation, Regulations of the Office of the Secretary*, available on subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (Price \$2.00 plus 50 cents additional for mailing to a foreign address.)

Amendment 187-4

Fees for Certification of Foreign Airmen and Air Agencies

Adopted: July 21, 1982

Effective: October 18, 1982

(Published in 47 FR 35690, August 16, 1982)

SUMMARY: These amendments establish: (1) a schedule of fees for issuing certain airman and repair station certificates to certain foreign nationals outside the United States; (2) a method for collecting those fees; and (3) a need requirement for original certification of those airmen (a need requirement has already been established for issuing certificates to foreign repair stations). These amendments are designed primarily to recover costs the FAA incurs in certificating foreign airmen and repair stations overseas. The amendment requires that certificates be issued overseas to foreign nationals only when needed to operate or assure the continued airworthiness of U.S.-registered civil aircraft. Finally, this amendment is in keeping with the intent of Congress.

FOR FURTHER INFORMATION CONTACT: Kathleen W. Gorman, Chief, International Analysis & Coordination Division (AIA-300), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426-3230; or Leo Weston, Chief, General Aviation and Commercial Branch (AWS-340), Aircraft Maintenance Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426-3546; or Arthur C. Jones, Chief, Certification Branch (AFO-840), General Aviation and Commercial Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426-8196.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1981, the FAA issued Notice of Proposed Rulemaking No. 81-12 (46 FR 40529; August 10, 1982) proposing: (1) to establish fees for issuance of certain airman and repair station certificates

In addition, the Administrator is charged with establishing a fair and equitable system for recovering full costs expended for any service; such as issuing the certificates discussed in Notice 81-12, which provides a special benefit to an individual beyond those which accrue to the general public. Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) states:

It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency . . . to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible

To give full effect to this sense of Congress, § 483a further provides:

The head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts

The statute provides that the amounts collected shall be paid into the Treasury as miscellaneous receipts.

OMB Guidance

To aid in establishing fee schedules, the Office of Management and Budget (OMB) has prescribed in Circular No. A-25, "User Charges," the general guidelines to be used in developing an equitable and reasonable uniform system of charges for certain Government services and property.

The circular provides that "Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service." Circular No. A-25 specifies:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

(a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (*e.g.*, receiving a patent, crop insurance, or license to carry on a specific business); or

(b) Provides business stability or assures public confidence in the business activity of the beneficiary (*i.e.*, certificates of necessity and convenience [*sic*: convenience and necessity] for airline routes, or safety inspections of craft); or

(c) is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (*e.g.*, receiving passport, visa, airman's certificate, or an inspection after regular duty hours).

Previous Notices

Consistent with the guidelines in Circular No. A-25, in recent years the FAA issued several notices of proposed rulemaking to establish a schedule of fees for various FAA activities (Notices 67-17, 67-18, and 78-6). The schedules were predicated, however, on the FAA's systemwide total cost of performing specific certification activities, and no attempt was made to distinguish the far greater costs incurred performing certification services overseas from costs incurred performing similar services in the United States. The proposed fee schedules were never implemented. Beginning in 1973, the Congress annually prohibited implementing fee schedules through language in the appropriations legislation for the Department

Before 1970, a liberal policy prevailed within the FAA regarding acceptance of applications for airman and air agency certificates by foreign nationals residing outside the United States. During the 1970's, however, the continuous expansion in worldwide demand for FAA certification services, along with the adverse movement of currency exchange rates against the U.S. dollar, placed an undue burden on FAA budgetary and manpower resources.

Simultaneously, the appropriateness of this policy was called into question. The technical sophistication of many foreign civil aviation certification authorities has been strengthened by general economic growth and civil aviation technical assistance provided by the International Civil Aviation Organization (ICAO), the United States, and other nations. Overly free exportation of U.S. certificates could deter the development of competent, indigenous certification programs. The FAA wishes to avoid that result and to encourage foreign governments in developing aeronautical codes and administrative capabilities which would permit them to conduct their own certification functions.

For these reasons the Administrator began a practice of restricting recertification of foreign nationals, primarily through the requirement that the applicant show that such certification is required to operate or assure the continued airworthiness of U.S.-registered civil aircraft (need requirement). This need requirement was incorporated in regulations governing certification of foreign repair stations (14 CFR § 145.71). To further ensure consistent implementation of this practice, these amendments incorporate the need requirement in the Federal Aviation Regulations (14 CFR parts 61, 63, 65 and 67) governing initial airman certification.

In 1980 Congress passed the International Air Transportation Competition Act of 1979, giving the Administrator authority to establish fee schedules for airman and repair station certificates issued outside the United States. Section 28 of that Act amends § 45 of the Airline Deregulation Act of 1978 to read as follows:

Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station.

Although § 28 provides discretionary authority to collect fees from any applicant residing outside the United States, this regulatory amendment establishes fees to be collected only from foreign nationals residing outside the United States.

Discussion of Amendments

In keeping with the authority granted under § 28 of the International Air Transportation Competition Act of 1979, these amendments establish a schedule of fair and equitable fees for airman and repair station certification activities performed for foreign nationals outside the United States. For purposes of these amendments, persons having resident alien status are treated the same as U.S. citizens and will not be charged for FAA certification should it occur outside the United States.

Fixed fees for airman certificates and hourly rates for assessing fees for repair station certificates are included in the regulations as a new appendix to part 187 entitled "Fee Schedule for Certification Services Performed Outside the United States on Behalf of Foreign Nationals Other Than Resident Aliens." (Fixed fees could not be derived for repair station certificates because the time involved varies widely.) All fees are derived from total certification costs and include direct and indirect labor costs, overhead costs, interest recovery, depreciation, and space rent costs, where appropriate. The fees therefore implement OMB Circular No. A-25 and will recover all airman and repair station certification costs incurred by the FAA in issuing original certificates to foreign nationals.

No fees will be charged for renewing airman certificates. A fee will continue to be charged for replacing stolen or lost certificates. In addition, fees will be assessed for reissuing repair station certificates since reissuing these certificates requires considerable expenditure of FAA technical resources. However, because the technical resources expended in reissuing Inspection Authorization Certificates under § 65.91

The FAA does not currently issue to foreign nationals overseas: (1) Any certificates for Pilot Schools (part 141), Ground Instructors (part 143), Aviation Maintenance Technical Schools (part 147), or Parachute Lofts (part 149); and (2) certificates issued under subparts of part 65 for Aircraft Dispatchers (subpart C), Repairmen (subpart E), or Parachute Riggers (subpart F). Consequently, those parts and subparts have not been amended to include the need requirement and other requirements included in these amendments. Subpart B of part 65 similarly has not been amended although it is understood the current practice of issuing under this subpart a limited number of air traffic control tower operator certificates overseas to foreign nationals to operate civilian/military joint-use facilities in Europe will be continued under an appropriate agreement with the Department of Defense.

Notice 81-12 proposed a 2-year validity period for each certificate issued to a foreign national who is not a resident alien. In this regard, the FAA has determined that additional information concerning this issue is needed. Therefore the proposal concerning the 2-year validity period is not adopted at this time. The FAA may, however, initiate rulemaking in this area in the future. It should be noted that withdrawing this proposal does not alter the current renewal requirements for repair station, flight instructor, inspection authorization, certain flight engineer, and student pilot certificates.

Fee Collection

For airman certificates, the FAA will collect the fees at the time of application for a certificate or rating, after first ascertaining the applicant's eligibility. The Flight Standards Office (FSO) or designated examiner will determine whether the applicant meets the need requirement and other preliminary eligibility requirements, such as age and currency. If these requirements are met, the FSO will issue a receipt as evidence of payment and forward the applicable fee to the regional accounting office serving the area. Fees must be in the form of a check, money order, or draft payable in U.S. currency to the Federal Aviation Administration and drawn on a U.S. bank. No application will be acted upon until evidence of the payment has been presented. There will be no refund of any fee payment for any examination which the applicant fails to pass. However, if an applicant notifies the FAA at least one week before a scheduled examination that he wishes it cancelled, the FAA will refund the fee payment after deducting a minimal service charge to cover the cost of processing the application.

In the case of repair station certificates, applicants will submit as prepayment the costs required for 25 hours of technical activity and 7.5 hours of clerical activity for original certification or approval of a change of location or housing of facilities, or 10 hours of technical activity and 3 hours of clerical activity for an amendment or renewal of the certificate due to an added rating or change in ownership, at the hourly rates specified in the appendix to part 187. This prepayment will be processed in the same fashion as fees collected for airman certificates. If the time required in actual certification is less than 25 and 7.5 hours or 10 and 3 hours, the FAA will submit to the applicant a refund to cover the difference between prepayment and actual costs. Conversely, if the time required is greater, the applicant will be required to submit the additional funds. As in the case of airman certificates, applicants for repair station certificates must pay these fees, regardless of whether a certificate is awarded.

In Notice 81-12, the agency proposed to amend §65.15a. That section had previously been revoked by another regulatory action and, therefore, the proposed amendment was inappropriate. Therefore, the proposal to amend §65.15a is withdrawn.

Analysis of Comments

The FAA received 39 comments in response to Notice 81-12, 29 of which originated from the same pilot school in Belgium. Most of these comments, particularly those originating from the Belgian pilot school, argue that the proposed 2-year renewal requirement would inhibit the safe expansion of aviation in many parts of the world by denying FAA airman certificates to many foreign nationals overseas who may not be able to demonstrate periodically that they are operating or assuring the continued airworthiness of U.S.-registered aircraft. These commenters further argue that, as a result, aviation safety would

Other commenters disagree with the proposed renewal requirement as a safety surveillance measure as it applies to airman certificates issued under parts 61 and 63. One commenter points out that the FAA's current biennial flight review and instrument competency checks fulfill the requirement for safety surveillance and that a proposed 24-month term for a new license would appear to be a duplication of the biennial flight review.

The FAA believes that although these comments have merit as they apply to certification under part 61, similar surveillance does not exist for airmen certificated under parts 63 and 65. This amendment would have ensured greater surveillance of operations involving U.S.-registered aircraft operating outside the United States. However, unless and until it is determined that foreign nationals should be required to demonstrate a need for certification on a periodic basis, the FAA does not believe it appropriate to institute the biennial renewal requirement. Therefore, the proposal is withdrawn at this time.

Other commenters point out that at many overseas locations served by U.S. air carriers there is no FAA-certificated repair station and that it is financially advantageous for U.S. air carriers to use resident foreign nationals who are FAA-certificated mechanics rather than incur the considerably higher costs of stationing FAA-certificated U.S. citizens at these locations. Finally, they indicate that many foreign nationals may find it difficult to pay the \$400 fee for original airframe mechanic certification and be deterred from applying.

Current FAA-certificated mechanics will not be required to pay the fee for a mechanic certificate or the fee for an inspection authorization certificate. While the costs of initial certification of new applicants may have to be borne directly or indirectly by the U.S. employer, the potential cost on U.S. air carriers is minimal when compared to either their total overseas maintenance costs or the costs of stationing FAA-certificated U.S. citizens overseas. Furthermore, the need for cost recovery and fiscal responsibility in government far outweighs this impact.

The FAA also considered the possibility that U.S. citizens, such as those providing humanitarian or religious services in remote overseas locations, could be impacted negatively if these proposed fees deter foreign nationals from applying for original FAA mechanic certificates. The FAA does not expect foreign nationals to be deterred from applying. The employment value of certification to the foreign mechanic far outweighs the cost of this fee, and the value of the services provided U.S. citizens far outweighs whatever small percentage of the certification cost is passed on to them. Moreover, many of these U.S. citizens are already required to register their aircraft with the Civil Aviation Authority in the country in which it is based and therefore would be unaffected by the rule.

Issuance of Medical Certificates

Notice 81-12 proposed an \$8 fee for the initial issuance of FAA medical certificates. Internal FAA review has shown that administering this separate fee for medical certificates would create an excessive burden by requiring the FAA to monitor the fee collection activities of overseas designated aviation medical examiners (AMEs). To avoid this problem, applicants for initial student pilot certificates issued by the FAA or by a Designated FAA Examiner will pay a single fee for airman certification which will include \$8 to cover the costs of a medical certificate issued under part 67. An \$8 charge will also be included into the fee for an initial certificate issued under §§ 61.75, 61.77, 63.23, and 63.42 if the applicant presents such a medical certificate as evidence of meeting the medical standards for the foreign certificate upon which the application is based.

In keeping with the decision to remove any fee collection responsibility from AMEs, overseas applications for student pilot certificates must now be made directly to an FAA Flight Standards Office or to a Designated FAA Examiner and cannot be made to an AME. The administrative procedures of § 61.85 governing applications for student pilot certificates therefore have been amended to cover only applications made within the United States.

burden on U.S. citizens, it has been determined that they are not major regulations under Executive Order 12291 and, for the same reason, it is certified that, under the criteria of the Regulatory Flexibility Act, they will not have a significant economic impact on a substantial number of small entities. The FAA has determined that this document involves regulations which are not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact on U.S. citizens of the regulations is so minimal that they do not require an evaluation.

Amendment 187-5

Fees for Certification Services and Approvals Performed Outside the United States

Adopted: April 10, 1995

Effective: May 19, 1995

(Published in 60 FR 19628, April 19, 1995)

SUMMARY: This rulemaking: Updates existing fees for airman and repair station certification services to reflect current cost levels for such services performed outside the United States (U.S.); Establishes a schedule of fees where no fee currently exists for all tests, authorizations, certificates, permits, or ratings relating to any airman certification or repair station certification performed outside the U.S.; Establishes the methodology for computing user fees and a timetable for periodic updates of fees; and Establishes additional methods of collecting those fees.

This regulation is necessary to allow the FAA to fully recover the costs it incurs in performing airman certification and repair station certification services outside the U.S. and to bring current airman fees charges in line with the General Agreement on Tariffs and Trade (GATT) and other international treaties.

The intended effect of this action is to offset the costs of providing airman and repair station certification services outside the U.S. Recovering these costs will allow the FAA to continue to provide airman and repair station certification services outside the U.S., thereby facilitating the FAA's effort to assure ready acceptance of U.S. aeronautical exports overseas.

FOR FURTHER INFORMATION CONTACT: Emily A. White, Flight Standards Service (AFS-50), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3301.

SUPPLEMENTARY INFORMATION:

Background

Statement of the Problem

The fee schedule that appears in 14 CFR 187, appendix A, was established by rulemaking and became effective on October 18, 1982. It contains fees for certain certification services performed outside of the U.S. by the FAA. However, it does not contain fees for the full scope of activities for which fees may be charged under current statutory authority. Rather, the fee schedule lists only fees for services that were being rendered outside the United States at the time of that rulemaking. The fee schedule has not been updated since 1982, although the FAA's costs for performing these services has escalated since adoption of the present rule in 1982. The FAA incurs special costs to operate overseas that increase the costs for providing services outside the U.S. These additional costs include cost-of-living allowances as well as allowances for housing and education. Due to these costs, employing an inspector outside

trade regime set up by the GATT, and which includes the Aircraft Code and the General Agreement on Trade in Services (GATS). Under these core trade principles, governments should not treat foreign nationals differently in the measures that they take that affect international trade. Airman certifications are not governed by any trade agreement to which the U.S. is a party, but the FAA has determined that bringing its fee practices into line with international trade practices is desirable, if not required by any special obligation of the U.S. The FAA measures with regard to certification of foreign repair stations, however, including fees charged, will be subject to U.S. obligations under the GATS, which entered into force January 1, 1995. Applying multilateral trade principles to trade in service for the first time, the GATS covers measures affecting aircraft repair and maintenance services. This regulation is consistent with U.S. obligations under the GATS.

History

Statutory Authority

Under 49 U.S.C. 44701, formerly, Title VI of the Federal Aviation Act of 1958, as amended (the Act), gives the Administrator authority to issue certificates for airman, instructors, schools, and repair stations.

In addition, under Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), the FAA has been charged with establishing a fair and equitable system for recovering full costs expended for any service, such as the issuance of the certificates, that provide a special benefit to an individual beyond those that accrue to the general public. Section 403a of that Act provides, in part, as follows:

It is the sense of the Congress that any work service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency . . . to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the fullest extent possible

Section 403a further provides, in part:

The head of each Federal agency is authorized by regulation (which, in the case of agencies in the Executive Branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefore such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts

In 1980, Congress passed the International Air Transportation Competition Act of 1979 (hereinafter "IATC Act") giving the FAA authority to establish fee schedules for airman and repair station certification services provided outside the U.S. Section 28 of the IATC Act amended Section 45 of the Airline Deregulation Act to read as follows:

Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station. (49 U.S.C. 334, second sentence).

Since the notice of proposed rulemaking (NPRM) was published (59 FR 33832, June 30, 1994), the Congress passed the Federal Aviation Administration Authorization Act of 1994 (hereinafter "FAA Authorization Act of 1994"), P.L. 103-305 (108 Stat. 1569), which was signed into law on August 23, 1994. Section 209 of the FAA Authorization Act of 1994, amended Section 45301 of Title 49 to, among other items, specifically require the FAA to establish and collect fees for foreign repair station certification and inspection actions outside the U.S. at such levels to fully recover the costs of providing such services. Section 209 reads in part:

To aid in establishing fee schedules, OMB has prescribed in Circular No. A-25 the general guidelines to be used in developing an equitable and reasonable uniform system of charges for certain government services and property. The circular provides that "where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those that accrue to the public at large, a charge should be imposed to receive the full cost to the Federal Government of rendering that service." Circular No. A-25 specifies the following:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

- (a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (for example, receiving a patent, crop insurance, or license to carry on a specific business), or
- (b) Provides business stability or assures public confidence in the business activity of the beneficiary (for example, certificates of necessity and convenience [sic: convenience and necessity] for airline routes, or safety inspections of craft); or
- (c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (for example, receiving passport visa, airman's certificate, or an inspection after regular duty hours).

In support of the President's guidance in Circular No. A-25, this final rule enables the FAA to fully recover its costs for repair station and airman certification services performed outside the U.S. This rule is also consistent with the guidance in Circular A-25 regarding the use of excise taxes because once the new fees are implemented, appropriated funds will not be used to support these services.

Related Activity

If adopted, the proposed new part 142, Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers (Notice No. 92-10), and Special Federal Aviation Regulation No. 58, Advanced Qualification Program, will provide for certification of training centers outside the U.S. The certification provisions relating to these training centers will be contained in the proposed new part 142. The fees for the certification of training centers and for airman certification will be contained in a new FAA advisory circular discussed elsewhere in this document.

The FAA Authorization Act of 1994, cited above, broadened the FAA's statutory authority to charge for services outside the U.S. Prior to the enactment of this legislation, FAA authority to charge fees for services performed outside the U.S. was limited to repair station and airman certification actions.

Under this legislation, authority to charge fees for services performed outside the U.S. is extended to: "any test, authorization, certificate, permit, rating, evaluation, approval, inspection, review," (49 U.S.C. 45301 (2)(c)). New fees authorized under this expanded authority will be proposed in future rulemaking action.

Discussion of Comments Received

The FAA mailed over 600 advance copies of Notice No. 94-24, Fees for Certification Services and Approvals Performed Outside the United States, to the Civil Aviation Authorities of member countries of the International Civil Aviation Organization (ICAO), FAA certificated foreign repair station operators, and interested Aviation Rulemaking Advisory Committee (ARAC) members. The ARAC is a formal standing committee, comprised of representatives from aviation associations and industry. ARAC provides industry input in the form of information, advice, and recommendations to be considered in the full range of FAA rulemaking activities.

given at an FAA approved test center ranges from \$60 to \$150 depending upon the location. Accordingly, the fees adopted by this rulemaking are not excessive or too expensive for potential applicants.

Also regarding testing, GAMA questioned if FAA was, in effect, receiving more than full cost recovery where multiple applicants would be simultaneously taking tests.

The proposed time of 0.5 hours, or one-half hour, as the base time for computation of fees for all written tests is based on the time that an FAA Aviation Safety Inspector must spend on each individual applicant in checking qualifications to take specific tests, review of the completed test package, and other individual instruction that might be necessary. This 0.5 hour number does not include the actual test monitoring time, which averages two hours per written test under FAA regulations, where multiple applicants might be involved. FAA specifically sought to avoid the potential of multiple charges by not proposing charges for test monitoring time.

GAMA had several concerns regarding the charging for repair station certification actions that can be addressed by an elaboration on exactly how the U.S. Government may charge for its services.

Under the U.S. Government guidelines and proposed rules, the FAA may charge only for the actual service provided and may not make a profit from its services. Consequently, if no government time or resources are expended on a particular service, then the FAA cannot charge for that service. There are oversight offices both within and outside of U.S. Government Agencies to assure agency compliance with applicable laws and regulations.

GAMA recommends the use of bilateral-type agreements with foreign governments to accomplish the FAA's foreign repair station workload, rather than using FAA inspectors on a cost recovery basis.

The FAA has been considering bilateral-type maintenance agreements with foreign countries for some time. The FAA expects that at the appropriate time, maintenance-type bilateral agreements will be concluded. This will not only be a cost savings to the end user but to the FAA as well.

GAMA questioned whether an hourly charge for inspector services, such as for repair station certification actions, would encourage an inspector to artificially extend the time required for certification in order to generate more income for the office or as a punitive action against the applicant or certificate holder.

It should be pointed out that hourly billing for these services has been in place for over twelve years with no complaints from repair station certificate holders. Nor has any question regarding billing practices ever arisen during the course of regular FAA financial management reviews. Fee collection practices are also subject to other audits by the U.S. Department of Transportation Inspector General, the General Accounting Office, and other oversight offices. Cost allocation studies have shown that the charging of an hourly rate for services that can vary widely in time per facility due to facility size, complexity, and, potential problems uncovered is a very fair and nondiscriminatory way of charging for these services.

GAMA is also concerned that transportation and subsistence not be charged for actions that are performed in the office. Approximately 95 percent of repair station certification actions are performed on site at the facility. For repair station certification actions, that may be handled without a site visit, no transportation and subsistence expense will be incurred that could be charged to the certificate holder.

Finally, GAMA states that since fees collected do not directly affect the FAA budget, the collection of these fees still might not assure the service is available when and where needed.

This statement is incorrect. Since 1991, the fees collected by FAA safety inspectors for repair station and airman certification actions outside the U.S. has been credited back to the budget of the safety office that performed the certification action as reimbursement for expenses. This procedure helps to ensure that sufficient funds remain available for necessary certification services.

of fees.

All other proposals are adopted as proposed.

Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with this rule.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The FAA has determined that this amended rule is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review). The results are summarized in this section.

This rule will not impose any additional costs on any members of society other than those requesting FAA certification services outside the United States. The rule will reimburse the FAA for the cost of services currently being provided to the users. Thus, the beneficiaries, rather than the general taxpayers, will pay for the services provided by the FAA. The new and amended fees are considered equitable and reflect the cost of providing these services. The benefits of this rule will therefore be the elimination of the need for general federal revenues by the FAA to cover the costs of these services provided by the FAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to consider the impact of rules on small entities, that is, small businesses, nonprofit organizations, and local governments. If there is a significant impact on a substantial number of small entities, the Agency must prepare a draft Regulatory Flexibility Analysis (RFA) for the final rule.

The amended rule will primarily affect general aviation pilots and foreign repair stations. The RFA applies neither to individuals nor foreign entities. Therefore, a RFA is not required.

International Trade Impact

This rule will affect primarily general aviation pilots and foreign repair stations. The rule will have a favorable competitive impact on U.S. repair stations by removing the subsidy that the FAA has provided to foreign repair stations in the form of lower charges for certification services. The rule will enhance the competitiveness of domestic firms.

Federalism Implications

The regulations herein will not have substantial direct implications on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities

The authority citation for part 18/ continues to read as follows:

Authority: Sec. 501, 65 Stat. 290; 31 U.S.C. 9701; secs. 301, 302, 303, 305, 307, 313, 314; 72 Stat. 744, 747, 749, 752, 754; 49 U.S.C. 1341, 1343, 1344, 1346, 1348, 1354, 1355.

exclusively in 49 CFR part 7.

§ 187.5 Duplicates of licenses.

The fee for furnishing to a person entitled thereto a replacement, duplicate, or facsimile of a certificate or other document evidencing a license, for which a fee is not specifically provided elsewhere in this chapter, is \$2.

§ 187.7 Copies; seal.

The fees for furnishing photostatic or similar copies of documents and for affixation of the seal

tration by check, money order, or draft payable in U.S. currency and drawn on a U.S. bank.

[(b) The fees described in the Schedule of Services contained in appendix A of this part and published in the "Notices" section of the *Federal Register* may be paid by wire transfer.

[(c) Applicants for the FAA services described in the Schedule of Services contained in appendix A of this part shall pay bank processing charges, when such charges are assessed by banks on U.S. Government deposits.]

(Amdt. 187-4, Eff. 10/18/82); [(Amdt. 187-5, Eff. 5/19/95)]

is the individual performing the actual service. Charging for inspector time, while building in all costs into the rate base, provides for efficient cost recovery and time measurement.

(c) The hourly billing rate has been determined by using the annual operations budget of the Flight Standards Service. The budget is comprised of the following:

(1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200, and 1300.

(2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).

(3) Transportation of things, budget code series 2200.

(4) Rental, communications, utilities, budget code series 2300.

(5) Printing and reproduction, budget code series 2400.

(6) Contractual services, budget code series 2500.

(7) Supplies and materials, budget code series 2600.

(8) Equipment, budget code series 3100.

(9) Lands and structures, budget code series 3200.

(10) Insurance claims and indemnities, budget code series 4200.

(d) In order to recover overhead costs attributable to the budget, all costs other than direct inspector transportation and subsistence, overtime, and Sunday/holiday costs, are assigned to the number of inspector positions. An hourly cost per inspector is developed by dividing the annual Flight Stand-

results in the hourly government paid cost of an aviation safety inspector.

(e) To ensure that the hourly inspector cost represents a billing rate that ensures full recovery of costs, the hourly cost per inspector must be multiplied by an indirect work factor to determine the hourly inspector billing rate. This is necessary for the following reasons:

(1) Inspectors spend a significant amount of time in indirect work to support their inspection activities, much of which cannot be allocated to any one client.

(2) Not all 2,087 annual paid hours are available as work hours because training, providing technical assistance, leave, and other indirect work activities reduce the work time that may be directly billed. Consequently, the hourly cost per inspector must be adjusted upwards by an indirect work factor. The calculation of an indirect work factor is discussed below.

(f) The indirect work factor is determined using the following formula:

$$(1 + \sum_{i=1}^k a_i)(1 + b) = \text{indirect work factor}$$

where:

a =indirect work rate, and

b =leave usage (total leave hours divided by total hours available for work).

The components of the formula are derived as follows:

(1) a =indirect work rate. Indirect work rate is taken from the Flight Standards Staffing Standard Order and is used to project the amount of time an aviation safety inspector spends in indirect activities, as opposed to certification and

- (d) Providing technical assistance
- (e) Assisting legal counsel
- (f) Evaluation of technical documents
- (g) Leave (all types)
- (h) Training
- (i) Administrative time
- (j) Travel for indirect work

(2) b=leave usage (total leave hours divided by total hours available for work). This is computed by using OMB guidelines of 280 average annual leave hours and 1,800 average annual hours available for work for computer manpower requirements.

(g) The hourly inspector cost, when multiplied by the indirect work factor, yields the hourly inspector billing rate and ensures full cost recovery by incorporating the total amount of FAA paid hours needed to produce one hour of direct billable inspector time.

(j) Actual transportation and subsistence expenses incurred in certification or approval actions will be billed in addition to the hourly inspector billing rate, where such expenses are incurred.

(k) In no event will the fees exceed the actual costs of providing certification or approval services.

(l) The methodology for computing user fees is published in this Appendix. The User fee schedule is published in an FAA Advisory Circular entitled "Flight Standards Service Schedule of Charges Outside the United States."

(m) Fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing tests, authorizations, certifications, permits, or ratings.

(n) Notice of each change to a fee for a service described in the user fee schedule will be published in the "Notices" section of the *Federal Register*.
(Amdt. 187-4, Eff. 10/18/82); [(Amdt. 187-5, Eff. 5/19/95)]

II. AIRMAN CERTIFICATION
All Categories of Airman
Authorizations for written or practical tests (if different from those specified below)
Special medical check
FA Act Section 609 re-exam
Inspector review for all tests, approvals, ratings given by designated examiners and evaluators
Pilots
Each written test, including: tests for initial issue or renewal of a certificate or rating, restriction and limitation removals, reissuance, determination of knowledge based on military experience in the categories below:
Private pilot
Recreational pilot
Commercial pilot
Airline transport pilot
Instrument rating
Flight instructor:
Fundamental of instructing
Written, other than gyroplane
Written for gyroplane
Ground instructor
Each practical test (oral, flight, simulated flight increments, or combined), for initial award, renewal of a certificate or rating, restriction & limitation removals, reissuances, determination of knowledge based on military competence in the categories below:
Student pilot
Recreational pilot
Private pilot
Commercial pilot
Commercial pilot limited to VFR
Commercial pilot reissue certificate
Airline transport pilot
Airline transport pilot, applicant without IFR rating
Instrument rating
Flight instructor:
Instrument rating
Added category rating

Class rating
Special purpose pilot on basis of foreign certificate
Special purpose pilot on basis of aircraft lease
Pilot proficiency check—12 month
Pilot proficiency check—24 month
Instrument competency check
Statement of demonstrated ability
Category II authorization
Category III authorization
Pilot-in-command in lieu of type rating (LOA) authorization
Aerobatic competence authorization
Pilot knowledge/skill authorization
Flight instructor simulator authorization
Flight Engineers
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence
Each practical test (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency
Special purpose flight engineer based on foreign license (initial, renewal, VFR or IFR, with or without medical)
Special purpose flight engineer based on aircraft lease (initial, renewal, VFR or IFR, with or without medical)
Flight Navigators
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence
Each practical test (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency
Aircraft Dispatchers
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence
Each practical test (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency—competency for airplane or helicopter
Mechanics
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—general, airframe, powerplant
Each practical test for initials, renewals, added ratings, restriction removals, reissuances—airframe or powerplant

Parachute Riggers
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—senior or master
Each practical test for initials, renewals, added ratings, restriction removals, reissuances, including tests based on military competence
Designation of Examiners
For all categories—Includes written and practical tests, initials, added ratings, renewals, restriction removals, reissuances in the categories below:
Pilot examiners:
Large turbine
Pilot proficiency
Written test examiner
Airman certification representative
Other types as the FAA may designate
Aircraft dispatch examiner (DADE)
Flight engineer examiner (DFEE)
Flight navigator examiner (DFNE)
Designated Airworthiness Representative (DAR)—initial
Designated Airworthiness Representative (DAR)—renewal
Designated Mechanic Examiner (DME)—initial
Designated Mechanic Examiner (DME)—renewal
Designated Parachute Rigger Examiner (DPRE)—initial
Designated Parachute Rigger Examiner (DPRE)—renewal
Other designees as the FAA may designate
III. AIR AGENCIES
Repair station certification/approval/authorization/inspection actions
Pilot school certification/approval/authorization/inspection actions
Airman training centers certification/approval/authorization/inspection actions
Aviation maintenance technician schools certification/approval/authorization/inspection actions
NOTE: Current fees for the services described in the Schedule of Services are published in the "Notices" section of this <i>Federal Register</i> . Future changes to the current fees also will be published in the "Notices" section of the <i>Federal Register</i> . A fee is effective on the date of its publication in the "Notices" section of the <i>Federal Register</i> .

